



FARM CREDIT BANK OF TEXAS

July 9, 2009

Mr. Gary K. Van Meter, Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

Re: Registration of Mortgage Loan Originators

Dear Mr. Van Meter:

The Farm Credit Bank of Texas appreciates the opportunity to comment on the FCA's proposed rule on a registration system for residential mortgage loan originators, issued in response to the S.A.F.E. Act provisions for a national registration system as published on July 9, 2009 in the Federal Register.

Generally, the volume of residential home originations in the 10th District is very small in comparison to loan originations related to the core Farm Credit System lending. Nonetheless, associations have authorities to originate loans secured by dwellings and that are primarily for personal, family or household use, though many more loans for business and agricultural purpose loans may be made and secured by farm land on which the borrower's dwelling is located. As proposed, loans that are not primarily for personal, family or household purposes would be exempt from the registration requirements. The FCBT strongly supports maintaining that distinction as such loans are primarily business or commercial in nature.

Further, we would note that Farm Credit System institution residential loan originations were not a contributing cause of the abusive practices engaged in by some loan originators. Most loans originated by Farm Credit System institutions that would be covered by the proposed regulations are retained on the books of the lending institution which significantly lessens any incentives for mortgage loan originators to incorporate terms into the loans that a borrower has little or no chance of meeting.

Additionally, we believe, given the low number of mortgage loan originations engaged in by most associations within the 10th district, that the proposed regulation would be a disincentive to employees to participate in any mortgage loan originations for fear that

either they will inadvertently become a mortgage loan originator when their primary responsibility is that of performing simply clerical and support functions. With this in mind we offer several specific comments to the proposed regulations.

1. The de minimus threshold exception is too low. We would recommend that a threshold of 12 loan originations per year per individual mortgage loan originator and at least 60 qualifying loan originations per institution would be a more appropriate threshold for required compliance.
2. Change §610.102(b)(1) to provide that a mortgage loan originator is an individual that 'primarily offers or negotiates directly with a consumer regarding the terms of a residential mortgage loan for compensation or gain'. In this vein, credit analysis, loan servicing and loan underwriting should specifically be listed as excluded activities in §(b)(2) of the Appendix to Part 610.
3. The definition of Residential mortgage loan in §610.102(e) should specifically exclude a seller-financed sale of an acquired property that is owned by the lender.
4. We would urge that the definition of taking an application in (a)(1) of the Appendix to Part 610 be amended to make it clear that it includes receiving information "from a consumer that, when taken together with other information received by the employee from the consumer, is sufficient to determine whether the consumer qualifies for a loan, even if the employee has had no contact with the consumer and is not responsible for further verification of information" (suggested changes are underlined). This would make it clear that an employee's receipt of information from the consumer, another employee or a clerical person does not satisfy the 'taking an application' prong of the test for a mortgage loan originator. It would also make it clear that simply receiving a small piece of information from the consumer would not satisfy the test. Additionally, it should be made clear that loan servicing activities, such as modifications, amendments, restructurings or assumptions do not involve the taking of an application or negotiating the terms of a residential mortgage loan.
5. Because the information required of registered mortgage loan originators is detailed and can be of a sensitive nature, the agency and the Nationwide Mortgage Licensing System and Registry should establish protections for identifying and personal information of registrants (Social Security Numbers, birth dates, etc.). Further, we see little value to require birth dates to be provided during the registration process. Last, we would urge that gathering information on alleged illegal or dishonest conduct contained in §610.103(d)(1)(x) is not in the nature of the information regarding a registrant's prior behavior that the statute sought to provide to potential borrowers as §5101(7) of the S.A.F.E. Act requires collection only of "publicly adjudicated disciplinary and enforcement action."
6. We request that the FCA adopt an alternative to the use of the Federal Reserve Board's RSSD numbering system for Farm Credit System institutions. While

Farm Credit Banks may have been assigned a RSSD number it is doubtful that any associations have been assigned an RSSD number.

7. Last, the final regulations should include model policies and procedures that would assist institutions in meeting the requirements of §610.104.

Again, the FCBT appreciates the opportunity to provide input on this important proposed regulation. If you have any questions in this regard please do not hesitate to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read 'K. Pankonien', written over a horizontal line.

Kyle Pankonien

Vice President and General Counsel